IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 627 of 2006 (M/B)

1. Amar Singh S/o Dal Singh,
   R/o Shahpur, P.S. Khanpur,
   District Haridwar.
2. Raj Singh S/o Raghubeer,
   R/o Shahpur, P.S. Khanpur,
   District Haridwar.
3. Rajbeer Singh S/o Kalu,
   R/o Rajbpur, P.S. Laksar.
4. Kabaj Singh S/o Shuk Ram,
   R/o Village Rajbpur, P.S. Laksar.
5. Rajesh Pavar S/o Pitambar Singh,
   R/o Village Ghasoti, P.S. Rampur,
   District Shahranpur. ……. Petitioners.

Versus

1. State of Uttaranchal,
   through Superintendent of Police,
   Haridwar.
2. Station Officer, P.S. Khanpur,
   District Haridwar.
3. Shiv Prakash S/o Chote Lal,
   R/o Village Hastmole, P.S. Khanpur,
   District Haridwar,
   Residing at present Nagri Lolpur,
   Tehsil Bhartana, District Etava.

……. Respondents.

Mr. M.S. Tyagi, Advocate for the petitioners.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. M.S. Tyagi, the learned counsel for the petitioners is heard on admission.

2. The petitioners have filed this writ petition for the following reliefs:

"a. a writ, order or direction in the nature of certiorari quashing the impugned F.I.R. In case crime no. 31 of 2006 U/s 420, 467, 468, 471, 34 of I.P.C. Police Station Khanpur, District Haridwar (containing Annexure No. 12) to this Writ Petition.

b. a writ, order or direction in the nature of mandamus commanding the respondent No. 1 & 2 not to harass the petitioners in view of the impugned F.I.R. till the collection of any credible evidence against the petitioners and till the filing of the charge sheet.

c. to pass a suitable writ, order or direction in favour of petitioners and against the respondents which this Hon'ble Court may deem fit and proper in the facts and circumstance of the present case.

d. to award the cost of the present writ petition to the petitioners.

3. The petitioners are seeking quashing of First Information Raport Annexure No.12 lodged by respondent No.3 against the petitioners, wherein serious allegations of fabrication of a forged Will purporting to be of respondent No.3 Shiv Prakash and showing respondent No. 3 Shiv Prakash as dead have been leveled against the petitioners.

4. The relevant portion of the First Information Report lodged by respondent No.3 against the petitioners reads as follows:

''परन्तु प्रार्थी की उक्त भूमि को फर्जी कागज तैयार कर कपट पूर्वक प्रार्थी की कथित मृत्यु रखी है प्रार्थी की कथित मृत्यु दिनांक 21.3.03 को ग्राम हस्तमौली में दर्प्राते हुए उक्त सम्पत्ति को विपक्षी राजसिंह पुत्र रघुवीर सिंह पुत्र व अमर सिंह पुत्र दलसिंह निवासी ग्राम प्राहपुर थाना खानपुर व राजवीर सिंह पुत्र कालू व कावज सिंह पुत्र सुखराम निवासीगण रजतपुर थाना लकसर जिला हरिद्वार तथा राजेन्द्र पवार पुत्र पिताम्बर सिंह निवारी ग्राम घासौती थाना रामपुर जिला सहारनपुर ने आपस में साज कर एक राय होकर कथित वसीयत तैयार कर उक्त सम्पत्ति को हड़प लिया है।''

5. The petitioner's stand that third respondent Shiv Prakash is an imposter and not the real Shiv Prakash, who in fact has died as per the

death certificate (Annexure No.2), is yet to be examined by the Instigating Agency, as according to the third respondent, the death certificate is also a forged one like the Will (Annexure No.1) in favour of the petitioners.

6. Considering the serious nature of the allegations against the petitioners in the First Information Report, we are of the opinion that no case warranting quashing of the First Information Report lodged by the third respondent against the petitioners and the case registered against them, is made out.

7. The writ petition, therefore, is liable to be dismissed and is, hereby, dismissed summarily.

8. With the above order, CLMA No. 6406 of 2006 also stands dismissed.

(Prafulla C. Pant, J.) 25.05.2006

(Rajeev Gupta, C.J.) 25.05.2006

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